



08 MAY 2007

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In re Application of
COTTRELL *et al*
U.S. Application No.: 10/560,725
PCT No.: PCT/US2004/020562
Int. Filing Date: 25 June 2004
Priority Date: 25 June 2003
Attorney Docket No.: IF03001USU
For: SECURE NETWORK PRIVACY
SYSTEM

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 02 March 2007.

BACKGROUND

On 01 September 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 02 March 2007, applicants filed a response which was accompanied by, *inter alia*, a four-month extension and fee; the subject petition; the surcharge fee; the petition fee; a declaration signed by one of the six named inventors; a declaration of Mariana Paula Noli; and exhibits A - I.

DISCUSSION

Applicants claim that five of the six named inventors refuse to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 18 January 2007.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s).

Concerning item (1), the petition fee of \$200.00 has been paid.

With regards to item (3), the last known addresses of the missing five co-inventors are provided in the petition.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the six co-inventors on behalf of himself and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Therefore, items (1), (3) and (4) are complete.

Regarding item (2), applicants' submitted a declaration by Ms. Noli who states that on 13 January 2006 a copy of a declaration and assignment were mailed to all inventors with a request to return the signed documents. Subsequently, a copy of the application and formal documents were submitted to the nonsigning inventors on 14 November 2006. Copies of the letters, postal receipts and other documentary evidence were submitted with the petition. Ms. Noli states that no response has yet been received. No other action was taken to obtain the declarations.

This is insufficient.

Petitioners are claiming that the conduct of the five nonsigning inventors constitutes a refusal. Petitioners have shown that a complete copy of the subject application was mailed to the last known addresses of the nonsigning inventors. However, there is no evidence that the 37 CFR 1.47(a) applicants even attempted to contact the nonsigning inventors via telephone or email to determine whether they received the documents and if they intend to cooperate in the subject application. Moreover, no reason has been submitted as to why five of the six named inventors are refusing to cooperate. Such efforts are not extraordinary and are required here. See § 409.03(d) MPEP.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in cursive script that reads "James Thomson".

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